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## TRANSMITTAL FORM

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Total Number of Pages in This Submission

Application Number	10/718,770
Filing Date	November 21, 2003
First Named Inventor	Charles L. Branch, et al.
Art Unit	3738
Examiner Name	Christopher D. Prone
Attorney Docket Number	MSDI-220/PC740.00

### ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Receipt Postcard
<div>Remarks</div>		

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Krieg DeVault LLP		
Signature			
Printed name	Brad A. Schepers		
Date	October 31, 2006	Reg. No.	45,431

### CERTIFICATE OF TRANSMISSION/MAILING

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**




In re patent application of:	)	Before the Examiner:
Charles L. Branch, Jr.	)	Christopher D. Prone
	)	
Application Serial No. 10/718,770	)	Group Art Unit 3738
	)	
Filed November 21, 2003	)	Ref. No. MSDI-220/
	)	PC740.00
	)	
EXPANDABLE SPINAL IMPLANT	)	October 31, 2006

**RESPONSE TO NON-FINAL OFFICE ACTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the non-final Office Action dated July 31, 2006, please enter and consider the following remarks. Additionally, please provide any extensions of time necessary and charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

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October 31, 2006	_____
Date of Signature	_____

### **INTRODUCTORY COMMENTS**

Claims 1-60 are pending in the subject application. Claims 23, 26, 27 and 50-60 have been withdrawn from consideration. The remaining claims 1-22, 24, 25 and 28-49 currently stand rejected. In view of the following amendments and remarks, reconsideration and allowance of the subject application are hereby requested.